

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. §405(g) for review of the decision of the Commissioner of Social Security Administration denying Plaintiff's application for disability benefits and Supplemental Security Income benefits. The matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings in accordance with 28 U.S.C. §636 (b)(1)(B). On October 21, 2008, Judge Erwin entered an order setting a briefing schedule; the Order [Doc. No. 8] directed Plaintiff to file his opening brief no later than 45 days after the October 21, 2008 Order.

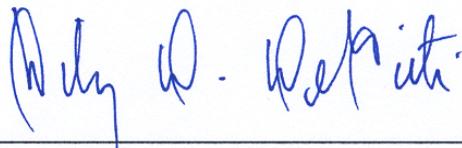
Although that deadline was subsequently extended to January 23, 2009, Plaintiff failed to file a brief.

On June 10, 2009, Judge Erwin filed his Findings and Recommendation [Doc. No.11] in which he noted that, as of that date, Plaintiff had failed to file a brief in support of his request for a review of the Commissioner's decision. Judge Erwin recommended that the action be dismissed for failure to comply with the Court's scheduling order. In the Findings and Recommendation, he expressly advised the parties of their right to object to the matters set forth therein, and he directed that such objections be filed within 20 days of the June 10, 2009 Findings and Recommendation. The Magistrate Judge also expressly cautioned the parties that a failure to object would constitute

a waiver of the right to appeal.

The deadline for filing objections has expired, and neither party has filed objections nor sought an extension of time in which to do so. Accordingly, the Findings and Recommendation [Doc. No. 11] are adopted as though fully set forth herein. This action is dismissed without prejudice to the filing of a new action.

IT IS SO ORDERED this 13th day of July, 2009.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

